

Paul J. Fishman
ARNOLD & PORTER KAYE SCHOLER LLP
One Gateway Center, Suite 1025
Newark, NJ 07102
(973) 776-1901
paul.fishman@arnoldporter.com

Aaron R. Marcu*
FRESHFIELDS BRUCKHAUS DERINGER US LLP
601 Lexington Ave., 31st Floor
New York, NY 10022
(212) 277-4000
aaron.marcu@freshfields.com

Jennifer Loeb*
FRESHFIELDS BRUCKHAUS DERINGER US LLP
700 13th Street NW, 10th Floor
Washington, DC 20005
(202) 777-4500
jennifer.loeb@freshfields.com

Attorneys for Proposed Amici Curiae
Giffords Law Center to Prevent Gun Violence,
Brady Center to Prevent Gun Violence, and March for Our Lives

**Pro hac vice pending*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

ASSOCIATION OF NEW JERSEY
RIFLE & PISTOL CLUBS, INC., et al.,

Plaintiffs,

v.

MATTHEW J. PLATKIN, *in his
official capacity as Acting Attorney
General of New Jersey*, et al.,

Defendants.

HON. PETER G. SHERIDAN

Civil Action No.
3:18-cv-10507

MARK CHEESEMAN, et al.,

Plaintiffs,

v.

MATTHEW J. PLATKIN, *in his
official capacity as Acting Attorney
General of New Jersey*, et al.,

Defendants.

HON. RENEE M. BUMB

Civil Action No.
1:22-cv-04360

BLAKE ELLMAN et al.,

Plaintiffs,

v.

MATTHEW J. PLATKIN, *in his
official capacity as Acting Attorney
General of New Jersey*, et al.,

Defendants.

HON. PETER G. SHERIDAN

Civil Action No.
3:22-cv-04397

**UNOPPOSED MOTION OF GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE, BRADY CENTER TO PREVENT GUN VIOLENCE,
AND MARCH FOR OUR LIVES FOR LEAVE TO FILE A BRIEF AS
AMICI CURIAE IN SUPPORT OF DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT**

**CORPORATE DISCLOSURE STATEMENT AND NOTIFICATION
OF PUBLICLY HELD AFFILIATES**

Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, and March for Our Lives are non-profit corporations organized under 26 U.S.C. § 501(c)(3), have no parent corporation, do not issue stock, and have no publicly-held affiliates.

/s/ Paul J. Fishman

Paul J. Fishman

Attorney for Proposed Amici Curiae
Giffords Law Center to Prevent Gun
Violence, Brady Center to Prevent Gun
Violence, and March for Our Lives

I. INTRODUCTION

Proposed *Amici Curiae* Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”), Brady Center to Prevent Gun Violence (“Brady”), and March for Our Lives (“MFOL”) (together, “*Amici*”) respectfully move for leave to file the proposed *amici curiae* brief, attached hereto as Attachment 1, in support of Defendants’ Opposition to Plaintiffs’ Motions for Summary Judgment. All parties consent to this motion, and *Amici*’s arguments below demonstrate why this Court should permit *Amici* to participate in these proceedings.

Giffords Law Center is a non-profit policy organization serving lawmakers, advocates, legal professionals, gun violence survivors, and others who seek to reduce gun violence and improve the safety of their communities. Brady is the nation’s longest-standing non-partisan, non-profit organization dedicated to reducing gun violence through education, research, legal advocacy, and political action. MFOL is a youth-led non-profit organization dedicated to promoting civic engagement, education and direct action by youth to achieve sensible gun violence prevention policies that will save lives.

Through partnerships with researchers, public health experts, and community organizations, *Amici* conduct research for, draft, and defend laws, policies, and programs proven to reduce gun violence. Giffords Law Center, Brady, and MFOL have filed numerous *amicus* briefs in cases involving the constitutionality of

firearms regulations,¹ and judges have regularly cited the organizations' research and expertise.²

II. ARGUMENT

“District courts have broad discretion to appoint *amicus curiae*.” *Liberty Lincoln Mercury, Inc. v. Ford Mktg. Corp.*, 149 F.R.D. 65, 82 (D.N.J. 1993). “Although there is no rule governing the appearance of an *amicus curiae* in the United States District Courts, the Third Circuit’s application of Fed. R. App. P. 29, which governs the appearance of *amicus* in the United States Courts of Appeals, provides guidance to this Court.” *Alkaabi*, 223 F. Supp. 2d at 592.

The Third Circuit has held that, under Rule 29(b), the movant seeking leave to appear as *amicus curiae* must show “(a) an adequate interest, (b) desirability, and (c) relevance” *Neonatology Assocs., P.A. v. Comm’r*, 293 F. 3d 128, 131 (3d Cir.) (Alito, J.), *aff’d*, 299 F. 3d 221 (3d Cir. 2002). “[A]n *amicus* who makes a

¹ See, e.g., *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022); *McDonald v. City of Chicago, Ill.*, 561 U.S. 742 (2010); *D.C. v. Heller*, 554 U.S. 570 (2008); *Libertarian Party of Erie Cnty. v. Cuomo*, 970 F. 3d 106 (2d Cir. 2020).

² See, e.g., *Nat’l Ass’n for Gun Rts. v. Lamont*, No. 22-CV-1118, 2023 WL 4975979, at *12 (D. Conn. Aug. 3, 2023); *Rupp v. Becerra*, 401 F. Supp. 3d 978, 990 (C.D. Cal. 2019); *Ass’n of N.J. Rifle & Pistol Clubs, Inc. v. AG N.J.*, 910 F. 3d 106, 121-22 (3d Cir. 2018); *Md. Shall Issue v. Hogan*, 353 F. Supp. 3d 400, 403-05 (D. Md. 2018); *Stimmel v. Sessions*, 879 F. 3d 198, 208 (6th Cir. 2018); *Peruta v. Cnty. of San Diego*, 824 F. 3d 919, 943 (9th Cir. 2016) (en banc) (Graber, J., concurring). Giffords Law Center filed the latter 2 briefs under its former name Law Center to Prevent Gun Violence.

strong but responsible presentation in support of a party can truly serve as the court's friend." *Id.*; see also *Miller-Wohl Co. v. Comm'r of Lab. & Indus. State of Mont.*, 694 F. 2d 203, 204 (9th Cir. 1982) ("classic role of *amicus curiae* [is to] assist[] in a case of general public interest, supplement[] the efforts of counsel, and draw[] the court's attention to law that escaped consideration"). This Court has previously permitted *amicus* participation in this very proceeding for these reasons. See *Ass'n of New Jersey Rifle & Pistol Clubs, Inc. v. Platkin*, No. 3:18-cv-10507 (D.N.J. filed June 13, 2018) (ECF Nos. 34, 36 (motions to appear *amicus curiae* and proposed briefs of Giffords Law Center and Everytown for Gun Safety); 41, 42 (orders granting motions to appear)). *Amici* satisfy all bases under *Neonatology* for filing an *amicus* brief.

First, *Amici* have a significant interest in the outcome of this litigation. The principle at stake—the ability of states to regulate the weapons and accessories that create a heightened risk of danger to our communities—is fundamental to *Amici*'s mission. The resolution of Plaintiffs' motion will involve Second Amendment constitutional principles that could affect *Amici*'s future efforts, in New Jersey or elsewhere, to reduce gun violence through gun safety legislation. This weighs in favor of allowing participation by *Amici*, as well as other similarly situated gun safety or gun rights groups. See *California v. U.S. Dept. of Labor*, No. 13-cv-02069, 2014 WL 12691095 at *1 (E.D. Cal. Jan. 14, 2014) (granting leave to file *amicus*

brief where case implicated constitutional issues and therefore had “potential ramifications beyond the parties directly involved”).

Second, Amici’s views will be helpful for the Court, as *Amici* bring unique information and perspective to the issues implicated in this constitutional challenge and have “particular expertise” about the ways in which gun regulations reduce gun violence. *See Neonatology*, 293 F. 3d at 132 (noting a “particular expertise not possessed by any party to the case” as reason for granting leave to file *amicus* brief over objection that party was already adequately represented). Informed by that expertise, *Amici’s* submission will offer context for the New Jersey laws at issue, information about the public safety interests advanced by the laws’ restrictions on assault weapons and large capacity magazines, and an analysis of whether the Second Amendment protects the use of these weapons and accessories.

Third, Amici’s perspective is relevant for the Court, as demonstrated by the number of courts, including federal district courts, that have relied on similar information supplied by *Amici* when deciding other cases involving constitutional challenges to firearms regulations. *See, e.g., Lamont*, 2023 WL 4975979, at *12 (citing *amicus* briefs filed by Giffords Law Center, Brady, and MFOL for analysis of individual self-defense under the Second Amendment); *Peruta*, 824 F. 3d at 943 (Graber, J., concurring) (citing Giffords Law Center *amicus* brief, filed under former name Law Center to Prevent Gun Violence, for analysis of homicides carried out by

concealed weapons permit-holders); *Nat’l Ass’n for Gun Rts., Inc. v. City of San Jose*, 2022 WL 3083715, at *9 n.4 (N.D. Cal. Aug. 3, 2022) (referring to the “strong arguments offered by *amicus* [Brady]”); *Mishaga v. Smith*, 136 F. Supp. 3d 981, 996 (C.D. Ill. 2015) (referencing Law Center to Prevent Gun Violence *amicus* brief as a line of reasoning “driv[ing] [the Court’s] conclusion”).

All parties consent to this motion and no party would be prejudiced by the filing of this *amici curiae* brief. Accordingly, *Amici* respectfully request leave from the Court to submit an *amici curiae* brief.

Dated: November 10, 2023

Respectfully submitted,

/s/ Paul J. Fishman

Paul J. Fishman

ARNOLD & PORTER KAYE SCHOLER LLP

One Gateway Center, Suite 1025

Newark, NJ 07102

(973) 776-1901

paul.fishman@arnoldporter.com

Aaron R. Marcu*

FRESHFIELDS BRUCKHAUS DERINGER US LLP

601 Lexington Ave., 31st Floor

New York, NY 10022

Tel: 212 277 4000

aaron.marcu@freshfields.com

Jennifer Loeb*

FRESHFIELDS BRUCKHAUS DERINGER US LLP

700 13th Street NW, 10th Floor

Washington, DC 20005

Tel: 202 777 4500

jennifer.loeb@freshfields.com

**Pro hac vice* pending

Attorneys for Proposed Amici Curiae
Giffords Law Center to Prevent Gun
Violence, Brady Center to Prevent Gun
Violence, and March for Our Lives